



DEPARTMENT OF THE ARMY  
HEADQUARTERS, 1<sup>ST</sup> BATTALION, 187<sup>TH</sup> INFANTRY REGIMENT  
101<sup>ST</sup> AIRBORNE DIVISION (AIR ASSAULT)  
FOB SUMMERALL, APO AE 09349

AFZB-KC-GC

(b)(3)(b)(6)

06 April 2006

MEMORANDUM FOR: Commander 3<sup>rd</sup> Brigade Combat Team, 101<sup>st</sup> Airborne Division (Air Assault),  
FOB Speicher, APO AE 09309

SUBJECT: 15-6 INVESTIGATION FINDINGS

1. On 04 March 2006 I, CPT (b)(3), (b)(6) was directed to conduct an investigation in accordance with AR 15-6 in the matters surrounding the escalation of force on 03 APR 06 involving the Mortar Platoon, 1-187<sup>th</sup> Infantry Regiment. Specifically, to determine if the escalation of force was justified and procedures that should be either sustained or improved to mitigate further EOFs.

2. **Facts.** The mortar platoon patrol consisting of four vehicles was traveling East along East/West road, a two lane road through the urban area of Bayji, enroute to the Bayji Main Police Station. The patrol frequents this area and was patrolling the area in response to the recent killings that occurred in neighborhoods nearby. At 2035, the patrol encountered a black four door sedan traveling West towards them along the same two way road (see exhibit A and B). The platoon leader's vehicle was in the lead of the patrol (see exhibit A & D). As the car approached the patrol leader began to conduct escalation of force procedures using the headlights and gunners spot light. With the vehicle approaching to within (b)(2)High meters of the patrol, the driver flashed his lights, the gunners flashed his turret mounted high powered spot light and shined his high power visible green laser (see exhibit B and C). The vehicle did not stop approaching the patrol so the patrol leader stopped his patrol in the road, turned on the siren of his vehicle for a verbal warning and continued to flash their vehicle's lights. The vehicle still failed to stop (exhibit A). When the vehicle was within (b)(2)High meters and showed no sign of stopping or slowing down the gunner (b)(2)High see exhibit A). With the patrol stopped and the vehicle still moving forward and entering the lead vehicle's safe zone, the patrol leader gave the order to fire again and the gunner fired into the right hand side of the windshield (see exhibit A,B, and C). The vehicle stopped after the second burst of fire when it hit a light pole along the side of the road about (b)(2)High meters from the patrol. and the patrol leader ordered all the Soldiers to remain in their vehicles because he was convinced it was a VBIED as seen the previous day in the city ( See exhibit A). The patrol observed tracer fire near their location so they moved to investigate, when they returned to the scene the police were on site and found out that the vehicle was not a VBIED and that the car was a right hand drive car with 1 KIA and 1 wounded 2<sup>ND</sup> BN ISU members from Tikrit (see exhibit A).

3. **Findings.** Based upon the facts, I find the following:

a. Positive Identification is defined as reasonable certainty that the proposed target is a legitimate military target. Within the past three days we have had reports of possible VBIEDs in our area. Two days ago we had a VBIED explode in Bayji on an SIB officer traveling through our area, and on the day of the incident had a large explosion to our west along (b)(2)High that we have had unconfirmed reports was a VBIED. Historically and in just the past few days there has been a viable and actual threat of VBIEDs with in the area. Normally, a LN vehicle will stop, pull to the side of the road, and wait for further guidance from a CF vehicle. At night when a LN vehicle encounters an oncoming vehicle flashing its lights, they assume them to be a coalition force vehicle and pull to the side of the road. In this case the vehicle did not act in accordance with typical LN actions. That coupled with the recent

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VBIED, unknown explosion, and intelligence report led the patrol to identify the vehicle as a VBIED. In fact after the AFZB-KC-GC SUBJECT: 15-6 INVESTIGATION FINDINGS

shooting occurred the patrol leader ensured that all his men remained in the vehicles because he was sure the vehicle was a VBIED (see exhibit A). Given this, it was reasonable for the patrol leader to assume that the vehicle posed an imminent threat to his vehicle and the patrol.

(b)(2)High

(b)(2)High In this case, the lead vehicle of the patrol utilized a high power spotlight, a visible green laser, flashed the lights from dim to bright, and sounded their siren so that the vehicle would recognize them as Coalition forces and respond to the established procedures of stopping clear of the patrols protective bubble. Too further graduate the response prior to using deadly force the patrol halted. The halt was an unnecessary and potential hazardous for patrol, but provided yet another chance for the potential threat vehicle to avoid further escalation. While stopped the

(b)(2)High (see exhibit A, B, and C). When the vehicle still failed to stop, the patrol (b)(2)High

When the vehicle continued to move towards the patrol, unchanging its speed, the patrol leader's gunner fired, on order, to eliminate the threat which resulted in killing the driver. The patrol used three types of visible warning devices and one type of audible devices and even stooped their vehicles prior to engaging the vehicle. Reviewing the scenario and having a hot wash with the lead vehicle crew, I find that the patrol exceeded the normal escalation of force measures prior to reaching the point of using deadly force (disabling shots) and the use of force.

4. Recommendations.

(b)(5)

**AFZB-KC-GC**  
**SUBJECT: 15-6 INVESTIGATION FINDINGS**

5. POC this memorandum is MAJ (b)(3), (b)(6) VOIP 672-9305

(b)(3), (b)(6)

**CPT, IN**  
**Assistant S-3**

**Encl:**

1. Exhibit A (Sworn Statement of ILT (b)(3), (b)(6))
2. Exhibit B (Sworn Statement of SGT (b)(3), (b)(6))
3. Exhibit C (Sworn Statement of SPC (b)(3), (b)(6))
4. Exhibit D (Storyboard)

000221

**Escalation of Force**  
**042035MAR06**  
**East/West Road**  
[Redacted]  
(b)(2)High

(b)(2)High

**1808-** TF Leader (MTR/1-187) departs FOB Summerrill enroute for the Bayji Main Police Station.

**2035-** Mortar Platoon reports an Escalation of Force. While traveling East on East/West Road the patrol encountered a vehicle traveling towards them. The patrol went through an Escalation of Force by flashing a high power spot light, shining a visible green laser, flashing their vehicle headlights, and blaring their siren. By this time the patrol had come to a halt. When the vehicle was within [Redacted] and still called to stop, the patrol [Redacted] (b)(2)High

The car still failed to stop and was well within [Redacted] of the patrol. Historically, VBIEDs have come in waves in the Bayji area. On 02APR06, a VBIED went off in Bayji resulting in units being on a high alert for a possible VBIED attack. Believing the oncoming vehicle was a potential VBIED, the gunner fired a second burst into the windshield of the vehicle killing the driver. TF Leader later confirmed that the two individuals in the vehicle were both members of the ESU.

**2108** – The Bayji IP arrives at the scene to assist the passenger of the vehicle.

**2123-** Mortar Platoon continues mission.

**2359-** Mortar Platoon returns to FOB Summerrill.

(b)(2)High

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

PRIVACY ACT STATEMENT

AUTHORITY: Title 10 USC Section 301; Title 5 USC Section 2951; E.O. 9397 dated November 22, 1943 /SSN/
PRINCIPAL PURPOSE: To provide commanders and law enforcement officials with means by which information may be accurately identified.
ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION Bayji, Iraq 2. DATE (YYYYMMDD) 2006 04 04 3. TIME 2035 4. FILE NUMBER
5. LAST NAME FIRST NAME MIDDLE NAME (b)(3), (b)(6) 6. SSN (b)(3), (b)(6) 7. GRADE/STATUS O2
8. ORGANIZATION OR ADDRESS HHC 1-187 3rd BCT 101st Abn

9. I, (b)(3), (b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

At about 2035 on 4 April the platoon was moving from West to East along (b)(2)High in northwest Bayji. A local national vehicle approached from the opposite direction and did not respond to our escalation of force. The gunner used both a high power spotlight and a green (visible, not IR) laser, the driver flashed the headlights from bright to dim and back rapidly and I (TC) activated the siren. The car never even slowed down. The gunner, SPC (b)(3), (b)(6) said "dim shooting" and I told him to go ahead.

At about (b)(2)High (b)(2)High

(b)(2)High At this time our vehicle was completely stopped to try to give the guy every opportunity to turn away. Even after the first rounds hit his car the driver neither slowed nor changed direction. SPC (b)(3), (b)(6) walked the rounds up into the windshield and killed the driver on the right side of the car. The driver's own right it was a right side driven car. The car only changed direction after the driver was hit in the head. I was still sufficiently convinced that the car was a VBIED that I ordered everyone to stay in the trucks and we waited for the car to explode. About this time we also saw tracers and heard gunfire from the east. Some of the (b)(2)High passed directly over our trucks. We went to investigate the (b)(2)High found nothing, and returned to the scene.

10. EXHIBIT A 11. INITIALS OF PERSON MAKING STATEMENT (b)(3), (b)(6) PAGE 1 OF 2 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

STATEMENT OF

(b)(3), (b)(6)

TAKEN AT

*Bay, Iraq*

DATED

*April 06*

9. STATEMENT (Continued)

of the EOF. We then found out that the driver and passenger, who none of us saw the first time, were from 2nd Battalion, CSU. Their names were (b)(6) who also had a "friend of ~~Bell~~" ID card, and Ahsoan A. A. The ID card only said "AA", and I didn't get his name from the survivor. Noting follows

(b)(3), (b)(6)

AFFIDAVIT

(b)(3), (b)(6)

HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT.

WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE

2

I FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE

BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE BOTTOM OF EACH PAGE CONTAINING THE STATEMENT. I HAVE MADE THIS STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT, AND WITHOUT COERCION, UNLAWFUL INFLUENCE, OR UNLAWFUL INDUCEMENT.

(b)(3), (b)(6)

Statement

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to

administer oaths, this

\_\_\_\_\_ day of \_\_\_\_\_

at

ORGANIZATION OR ADDRESS

(Signature of Person Administering Oath)

(Typed Name of Person Administering Oath)

ORGANIZATION OR ADDRESS

(Authority To Administer Oaths)

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 2 PAGES

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is ODCSOPS

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ROUTINE USES: Your social security number is used as an additional/alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION: BAYJI, IRAQ
2. DATE: 2006 04 09
3. TIME: 20:35
4. FILE NUMBER
5. LAST NAME FIRST NAME MIDDLE NAME
6.
7. GRADE/STATUS: E-5

8. ORGANIZATION OR ADDRESS: 1/187 HHC MTRS.

9. (b)(3), (b)(6) WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

WHILE TRAVELING DOWN (b)(2)High AT ABOUT 20:35, A CAR CAME AT OUR TRUCK, THE GUNNER FLASHED THE SPOT LIGHT AND AT THE SAME TIME I WAS FLASHING MY BRIGHTS OFF AND ON. THIS WAS AT ABOUT (b)(2)High THEN THE GUNNER HIT HIM WITH THE GREEN LASER, AT THE SAME TIME THE LT. HIT THE SIREN A FEW TIMES. THE DRIVER OF THE CAR SPEED DID NOT DECREASE. AT ABOUT (b)(2)High OR SO THE GUNNER SPL. (b)(3), (b)(6) (b)(2)High THE CAR DID NOT STOP. SO THEN HE FIRED I'D SAY 10-12 ROUNDS IN TO THE WINDSHIELD, HITTING THE RIGHT SIDE OF IT. THE CAR ENDED UP BEING A RIGHT SIDE DRIVER CAR. THEN THE T.C. LT. (b)(3), (b)(6) TOLD ME THE DRIVER, TO HEAD TOWARDS (b)(2)High, BECAUSE SHOTS WERE FIRED AROUND ARE LOCATION, THEN WE WENT BACK AND CORDONED THE AREA. WERE THEN THE LT. DID HIS INVESTIGATION. (b)(3), (b)(6)

10. EXHIBIT: B
PERSON MAKING STATEMENT: (b)(3), (b)(6)
PAGE 1 OF 2 PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF \_\_\_\_\_ TAKEN AT \_\_\_\_\_ DATED \_\_\_\_\_
THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

(b)(3), (b)(6)

(b)(3), (b)(6)

(b)(3), (b)(6)

STATEMENT OF

EN AT

FOIA SUMMERALL

DATED 7/26/04

9. STATEMENT (Continued)

(b)(3), (b)(6)

(b)(3), (b)(6)

FIDAVIT

HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT.

WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE (b)(3), (b)(6) FULLY UNDER  
BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIAL  
STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNIS

(b)(3), (b)(6)

WITNESSES:

Subscribed and sworn to before me, a person authorized by law to  
administer oaths, this 4<sup>th</sup> day of April, 2006  
at Beijing, China

(b)(3), (b)(6)

4 APR 2006 11147 HHC MTR5  
ORGANIZATION OR ADDRESS

(b)(3), (b)(6)

Person Administering Oath

(b)(3), (b)(6)

(Typed Name of Person Administering Oath)

ILT, IV

(Authority To Administer Oaths)

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATE

(b)(3), (b)(6)

PAGE

(b)(3)(b)(6)

OF

PAGES

SWORN STATEMENT

For use of this form, see AR 190-45; the proponent agency is DDCJORS

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ROUTINE USES: Your social security number is used as an additional alternate means of identification to facilitate filing and retrieval.
DISCLOSURE: Disclosure of your social security number is voluntary.

1. LOCATION: Bay J, Iraq; 2. DATE: 26 04 04; 3. TIME: 20:35; 4. FILE NUMBER; 5. LAST NAME: (b)(3), (b)(6); 6. (b)(3), (b)(6); 7. GRADE/STATUS: E4 JAC; 8. ORGANIZATION OR ADDRESS: HHC 1-197 INF (MTA's)

9. I, (b)(3), (b)(6), WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH:

We were at EW cutoff when a car came from the east toward us we blinked our lights signaled with spot light & laser & grounded given I (b)(2)High

(b)(2)High

Car still maintained same speed and direction toward our position I then placed 3 to 5 more in the left side of the wind shield the car then swerved to the right and hit a telephone pole and then the wall and came to a complete stop directly after we received small arms fire from the east I could not tell where the fire was coming from I reported it to the TC C1LT (b)(3), (b)(6) The driver, called it up to the other trucks we regrouped skirted the area trying to regain contact and we didnt ever regain it. (b)(3), (b)(6)

10. EXHIBIT: C; 11. INITIALS: (b)(3), (b)(6); NG STATEMENT; PAGE 1 OF \_\_\_ PAGES

ADDITIONAL PAGES MUST CONTAIN THE HEADING "STATEMENT OF \_\_\_\_\_ DATED \_\_\_\_\_ THE BOTTOM OF EACH ADDITIONAL PAGE MUST BEAR THE INITIALS OF THE PERSON MAKING THE STATEMENT, AND PAGE NUMBER MUST BE INDICATED.

STATEMENT OF

(b)(3), (b)(6)

TAKEN AT

F.O.B General

DATED

4 Apr 2006

9. STATEMENT (Continued)

(b)(3), (b)(6)

AFFIDAVIT

(b)(3), (b)(6)

I, (b)(3), (b)(6), HAVE READ OR HAVE HAD READ TO ME THIS STATEMENT WHICH BEGINS ON PAGE 1, AND ENDS ON PAGE (b)(3), (b)(6) FULLY UNDERSTAND THE CONTENTS OF THE ENTIRE STATEMENT MADE BY ME. THE STATEMENT IS TRUE. I HAVE INITIALED ALL CORRECTIONS AND HAVE INITIALED THE STATEMENT FREELY WITHOUT HOPE OF BENEFIT OR REWARD, WITHOUT THREAT OF PUNISHMENT

(b)(3), (b)(6)

WITNESSES:

(b)(3), (b)(6)

Subscribed and sworn to before me, a person authorized by law to administer oaths, this 4<sup>th</sup> day of April, 2006 at Baggio, Iraq

ORGANIZATION OR ADDRESS

(b)(3), (b)(6)

(Administering Oath)

(Typed Name of Person Administering Oath)

ILT, IN

(Authority To Administer Oaths)

ORGANIZATION OR ADDRESS

INITIALS OF PERSON MAKING STATEMENT

PAGE 2 OF 2 PAGES